

198-01R

MARTIN COHEN, :  
 :  
 PETITIONER, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 JAMES R. DURR, MEMBER, :  
 BOARD OF EDUCATION OF THE : DECISION ON REMAND  
 TOWNSHIP OF CHESTERFIELD, :  
 BURLINGTON COUNTY, :  
 :  
 RESPONDENT. :

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SYNOPSIS

Petitioner alleged that respondent, a Chesterfield Board member, was not a resident of the District. Respondent, who was divorcing his spouse, while acknowledging that he sometimes was away from the home, provided documentation listing the Chesterfield property as his residence.

*N.J.S.A.* 18A:12-3 states that membership in a local board of education terminates immediately when a board of education member ceases to be a bona fide resident of the district. The ALJ found no proof that respondent was no longer residing in Chesterfield. The ALJ found that respondent testified credibly and presented documentation such as bills, tax records, *etc.*, that listed Chesterfield as his address. The ALJ denied petitioner's request for a declaration that respondent was not a bona fide resident of Chesterfield Township. The Commissioner remanded the matter to the OAL for further findings of fact and credibility determinations with regard to the testimony of two witnesses for petitioner.

On remand, the ALJ further examined the testimony of petitioner's two witnesses, and made findings of fact and credibility determinations with respect to those witnesses. The ALJ determined that respondent resides in Chesterfield and dismissed the petition.

The Commissioner adopted the decision of the ALJ as his own.

June 22, 2001

OAL DKT. NOS. EDU 0470-01 AND EDU 4104-00 (ON REMAND)  
AGENCY DKT. NO. 78-2/00

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The record and Initial Decision On Remand issued by the Office of Administrative Law have been reviewed.<sup>1</sup>

Upon review of the record, the Commissioner agrees with and adopts as his own the findings of fact and conclusions of law reached by the Administrative Law Judge. Accordingly, the Petition of Appeal is hereby dismissed for the reasons set forth in the Initial Decision.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 22, 2001

Date of Mailing: June 26, 2001

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<sup>1</sup> The Commissioner notes for the record that petitioner's two witnesses, respondent's former wife and daughter, are still listed in the Initial Decision on Remand as witnesses for respondent rather than for petitioner. However, as is clear from the present decision, the ALJ examined the testimony of the witnesses and made findings of fact and credibility determinations in keeping with the Commissioner's prior decision remanding the matter to OAL.

<sup>2</sup> This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.